

BOARD OF DESIGN REVIEW MINUTES

March 6, 2003

CALL TO ORDER: Chairman Doukas called the meeting to order at 6:35 p.m. in the 2nd Floor Conference Room at 4755 SW Griffith Drive

ROLL CALL: Present were Chairman Mimi Doukas; Board Members Cecilia Antonio, Hal Beighley, Stewart Straus, and Jessica Weathers. Board Members Ronald Nardoza and Jennifer Shipley were excused.

Development Services Manager Steven Sparks, AICP; ■ Senior Planner Kevin Snyder; Senior Planner John Osterberg; Senior Planner Colin Cooper; AICP; Assistant City Attorney Ted Naemura; and Recording Secretary Sandra Pearson represented staff.

Chairman Doukas called the meeting to order and explained that the only purpose of this meeting is to continue the public hearing item and approve minutes, followed by a Work Session, observing that although the public is welcome to attend, no testimony would be accepted at this time.

NEW BUSINESS:

PUBLIC HEARINGS:

Chairman Doukas opened the Public Hearing and read the format of the hearing. There were no disqualifications of Board Members. No one in the audience challenged the right of any Board Member to hear any agenda items or participate in the hearing or requested that the hearing be postponed to later dates. She asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda.

A. BDR 2002-0172 – WESTPARK CENTER DEVELOPMENT DESIGN REVIEW

The applicant requests Type 3 Design Review approval for construction of a 13,860 square foot single-story retail building,

a 367-space parking lot, site landscaping, water quality facilities, and site grading necessary for two future development pads.

B. VAR 2002-0010 – WESTPARK CENTER DEVELOPMENT DESIGN VARIANCE SETBACK

The applicant requests Design Variance approval to reduce the minimum front yard setback of the Campus Industrial (CI) zone.

Chairman Doukas granted the applicant's request to continue the Public Hearing for BDR 2002-0172 – Westpark Center Development Design Review and VAR 2002-0010 – Westpark Center Development Design Variance Setback to a date certain of May 29, 2003.

APPROVAL OF MINUTES:

The minutes of January 9, 2003, as written, were submitted. Chairman Doukas asked if there were any changes or corrections. Ms. Weathers **MOVED** and Chairman Doukas **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED** unanimously, with the exception of Ms. Antonio, Mr. Beighley, and Mr. Straus, who abstained from voting on this issue.

The minutes of January 16, 2003, as written, were submitted. Chairman Doukas asked if there were any changes or corrections. Observing that he had been the only member of the Board of Design Review present at this meeting, Mr. Beighley **APPROVED** the minutes as written and submitted.

MISCELLANEOUS BUSINESS:

WORK SESSION:

Observing that five issues would be discussed at this Work Session, Planning Director Steven Sparks stated that the first issue for discussion involves a review of the Board of Design Review By-Laws:

At the request of Senior Planner Kevin Snyder, Mr. Sparks introduced and outlined the duties of Mr. Snyder, Senior Planner Colin Cooper, Senior Planner John Osterberg, and Assistant City Attorney Ted Naemura.

1. Review of Board of Design Review By-Laws.

Observing that the current by-laws have been outdated for some time, Mr. Sparks pointed out that some of the by laws have been incorporated through revisions to the Development Code, eliminating the need for some of these by-laws, adding that a motion to adopt the proposed by-laws should be addressed at a future meeting.

Mr. Snyder distributed copies of the public hearing draft scripts for both appeal and non-appeal issues. Observing that there are different methods for deliberating a specific project, he pointed out that the Planning Commission takes a poll prior to the motion, providing the applicant with an opportunity to request a continuance if it appears that an application may be denied.

Chairman Doukas mentioned that although the Board of Design Review does not reopen the Public Hearing, they have taken polls prior to making a motion.

Senior Planner John Osterberg noted that a poll is basically a method for deliberation.

Mr. Snyder expressed his opinion that the poll provides an opportunity for both the Chairman and the applicant to get a sense of where a proposal is going.

Mr. Straus suggested that it would be a good idea to take a poll prior to the closure of the hearing.

Chairman Doukas noted that the real straightforward applications could be determined through the motion-making process without a poll, expressing her opinion that the hearing should be closed prior to deliberation.

Observing that the Vice-Chair typically makes the motion, Mr. Straus discussed several past situations that had resulted in a tied vote.

Mr. Straus questioned the possibility of providing a copy of the hearing format text for review by the public rather than requiring the Chair to read this information for each hearing.

Assistant City Attorney Ted Naemura pointed out that this would create a procedural error, emphasizing that it is intended that these announcements be made for each hearing.

2. Code Review Advisory Committee and Design Review Process Amendments.

Observing that Chairman Doukas serves as the Board of Design Review's liaison and that Mr. Straus serves as the alternate, Mr. Snyder explained the purpose of this committee. He identified that a key purpose of the design review update was to address the vagueness and lack of clarity within the approval criteria and process itself, noting that the committee meets twice a month and has been working on these issues since December, 2002.

Mr. Straus expressed his opinion that the criteria is sometimes subjective and difficult.

Mr. Sparks pointed out that it is necessary to determine some sort of middle ground within the comfort level of all who are affected.

Mr. Straus suggested that the required Neighborhood Meeting should be considered a trigger for a potential hearing with regard to an issue.

Mr. Sparks mentioned that depending upon the applicable thresholds, a Neighborhood Meeting is not always necessary.

Mr. Snyder explained that the discussion on thresholds would be a very important issue for both the Planning Commission and the Code Review Advisory Committee, emphasizing that representation is based upon a broad cross section of individuals.

Chairman Doukas noted that the amount of specificity is sometimes too detailed, creating a difficult situation, adding that there should be some middle ground that allows the applicant a certain amount of creativity.

Observing that he had spent a great deal of time reviewing the Code Update with former Development Services Manager Irish Bunnell, Mr. Sparks noted that some of the problems were difficult to anticipate. He explained that all guidelines would require a certain process to guarantee compliance, adding that it is necessary to provide assistance to an applicant, rather than create obstacles.

3. Future Sign Code Amendments (Development Code Section 60.40).

Pointing out that the hearing concerning the Cedar Hills Crossing Mall (formerly Beaverton Mall) had been the most current experience, Mr. Sparks referred to Mr. Straus' Memorandum providing suggestions for amendments to the Sign Code.

At the request of Mr. Sparks, Mr. Osterberg briefly described the history of the Sign Code, noting following its adoption in 1982, a lawsuit was filed and won by the City of Beaverton.

Mr. Sparks discussed a prior Planning Director's Interpretation with regard to a roof sign on the *Hong Kong Market Place*, observing that the situation had gotten heated. He briefly discussed issues involving an "architectural feature" sign, noting that Mr. Snyder is working on the text, which should be ready for hearing within the next few months. He advised Mr. Straus that he had shared his recommendations with Mayor Rob Drake and Community Development Director Joe Grillo, noting that although they had been interested in his ideas, they do not intend to address these issues at this time.

Mr. Straus noted that he presumes that the Board of Design Review has some discretion with regard to review and recommendations to the City Council.

Mr. Sparks advised Mr. Straus that although there are certain limitations, the Board of Design Review has the option of bringing more to the table.

Mr. Straus explained that he would prefer to only address this situation one time and do it right at that time.

Mr. Snyder discussed his professional experience in managing a Sign Code Update effort for the jurisdiction he previously worked for. He observed that this process had taken over a year, adding that it is amazing how much attention can be attracted, and explained that tweaks and/or minor clarifications are helpful in this process.

4. Ex-Parte Contact/Conflict of Interest/Conduct of Hearings and other Legal Issues.

Mr. Naemura discussed recent appeals and distributed and described informational packets for review. Observing that new regulations have been adopted with regard to submittal of evidence, he pointed out that it is necessary for anyone submitting evidence to provide ten copies prior to the hearing.

Mr. Sparks noted that rather than making copies at the expense of the City of Beaverton, these individuals should be advised that *Kinko's* is located directly across the street.

Mr. Straus questioned whether anyone submitting evidence would be required to submit ten copies of models, material boards, or physical evidence.

Mr. Naemura clarified that ten copies would be required of any written documentation that can be duplicated. He disclosed the difference between a procedural and a substantive issue.

Mr. Sparks discussed what he referred to as *The Paper Dump*, observing that many individuals rely upon this method as a means of preparing for their next appeal, adding that it is helpful to obtain a waiver of the 120-day rule.

Mr. Naemura reminded those present that it is not possible to compel an applicant to waive the 120-day rule.

Mr. Sparks emphasized that staff would encourage that a decision be made on any issue that is nearing the 120-day deadline.

Pointing out that it is not always possible to avoid *The Paper Dump*, Mr. Naemura clarified that as a government entity, the City of Beaverton is required to respond to the citizens.

Mr. Naemura discussed the new Development Code, observing that findings would be reviewed by the Land Use Board of Appeals (LUBA) in some instances, and pointed out that it is necessary to determine whether regulations were followed, rather than whether a specific project is good or bad. He referred to page eight, noting five points that must be covered within the findings.

Mr. Sparks explained that it is sometimes difficult to prepare a recommendation when there is too little evidence for findings.

Mr. Naemura discussed ex parte contact, conflict of interest, and conduct of hearings, and reviewed situations where it becomes necessary for a member of the Board of Design Review to step down from a particular issue. Expressing his opinion that this has been done properly and has not created any problems, he emphasized that this is important in the eyes of the public.

5. Administrative Issues.

Observing that the upcoming applications with regard to Progress Quarry would be extensive, Mr. Sparks advised members of the Board of Design Review that they would most likely find large boxes of information at their front door in the near future. Noting that this project would involve *Polygon Northwest*, *MGH Associates*, and *Gramor Development*, he urged everyone to visit the site to gain an understanding of the topography involved, adding that the Public Hearing is scheduled for March 27, 2003.

The meeting adjourned at 8:47 p.m.